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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,520	10/18/2001	Killian D. Murphy	CTV-006	8686
22888	7590	11/30/2007		
BEVER HOFFMAN & HARMS, LLP TRI-VALLEY OFFICE 1432 CONCANNON BLVD., BLDG. G LIVERMORE, CA 94550			EXAMINER TRAN, MYLINH T	
			ART UNIT 2179	PAPER NUMBER
			MAIL DATE 11/30/2007	DELIVERY MODE PAPER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/033,520
Filing Date: October 18, 2001
Appellant(s): MURPHY, KILLIAN D.

Killian D. Murphy
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 07/18/07 appealing from the Office action
mailed 04/19/07.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,704,034	Rodriguez	03/2004
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5,638,523	Mullet	06/1997
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(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 11, 14-15 and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez et al. [US. 6,704,034] in view of Mullet et al. [US. 5,638,523].

As to claims 1, 14 and 18, Rodriguez et al. disclose identifying a selected region of a first image adjacent to a cursor in the GUI (figure 3F, the first image 302 is adjacent to the cursor 306), forming a magnified image including an enlarged version of the first image located in the selected region (figure 3F, the magnified image 314 including the enlarge version, column 5, lines 5-35), superimposing the magnified image over the first image such that the magnified image masks the selected region (figure 3F, superimposing the magnified image 314 over the first image 302);

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Rodriguez et al. fail to clearly teach the feature of a predetermined height and width that is independent of a position of the cursor in the GUI. Mullet et al. teach the predetermined height and width at figures 3A-3B, 3D. The selected region size is unchangeable that is independent of the position of the cursor. The selected region moves up and down, but maintains its circle shape.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made to combine the Mullet's system with Rodriguez's superimposing the magnified image over the first image. Motivation of the combination would have been to maximize the readability of the magnified text.

Rodriguez et al. in view of Mullet et al. fail to clearly teach superimposing the cursor over the magnified image to form a second image such that the cursor masks a portion of the magnified image. However, Rodriguez suggested that the cursor 306 can be moved to an image 314 (figure 3F, column 5, lines 50-55). Official notice is taken that implementation of the step of superimposing the cursor over the magnified image to form a second image would have been well known in the art of computer interface because the cursor 306 can be superimposed over any-position on the magnified image 314 by a user. The user can move the cursor (306) either beside the selected region (of the object 314) or right on the selected region (of the object 314) base on user's desire. This is just a user's choice.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made to combine the well known implementation of superimposing the cursor over the magnified image to form a second image to combine with Rodriguez's

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superimposing the magnified image over the first image. Motivation of the combination would have been to facilitate selection of the background image 302.

As to claims 2 and 19, Rodriguez et al. also disclose the magnified image having a width equal to a width of the GUI, thereby enhancing the readability of the text in the first image (figures 3H).

As to claims 3 and 20, Rodriguez et al. show a location identified by the cursor relative to the magnified image being co-located with a location identified by the cursor relative to the first image (column 5, lines 50-65).

As to claims 4 and 21, Rodriguez et al. also show a user visually interacting with a magnified interface element at the location identified by the cursor relative to the magnified image actually interacting with an interface element at the location identified by the cursor relative to the first image (column 5, lines 40-67).

As to claims 11 and 15, Rodriguez et al. disclose the magnified image being superimposed over the first image such that a first edge of the magnified image extends to a first edge of the first image and a second edge of the magnified image extends to a second edge of the first image (figure 3E-figure 3H).

Claims 5-10, 12-13 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez et al. [US. 6,704,034] in view of Mullet et al. [US. 5,638,523] and further in view of Chui et al. [US. 6,407,747].

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As to claim 5, Rodriguez et al. in view of Mullet et al. fail to clearly teach determining Cartesian coordinate data identifying a location of the cursor, calculating upper and left boundaries of the selected region based on the Cartesian coordinate data. However, in the same field of the invention, Chui et al. show determining Cartesian coordinate data is disclosed at figure 4H and calculating upper and left boundaries at column 6, lines 56-67 and column 7, lines 35-47. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to combine the teaching of Rodriguez et al. with Chui's Cartesian coordinate data. Motivation of the combination would have been to place a magnified image in a correct position.

As to claim 6, Rodriguez et al. in view of Mullet et al. fail to clearly teach multiplying a distance from the cursor to a left boundary of the magnified image by a width of the selected region to form a first factor and dividing the first factor by a width of the magnified image to form a second factor; and subtracting the second factor from an X Cartesian coordinate of the cursor. However, in the same field of the invention, Chui et al. also teach multiplying a distance from the cursor to a left boundary at column 8, lines 25-55 and dividing the first factor by a width of the magnified image to form a second factor; and subtracting the second factor from an X Cartesian coordinate of the cursor at column 4, lines 52-67. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to combine the teaching of Rodriguez et al. with Chui's Cartesian coordinate data. Motivation of the combination would have been to place a magnified image in a right position.

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As to claim 7, Rodriguez et al. in view of Mullet et al. fail to clearly teach multiplying a distance from the cursor to a upper boundary of the magnified image by a height of the selected region to form a third factor and dividing the third factor by a height of the magnified image to form a fourth factor; and subtracting the fourth factor from a Y Cartesian coordinate of the cursor. However, in the same field of the invention, Chui et al. also teach multiplying a distance (column 7, lines 35-47 and column 8, lines 30-65); dividing the third factor by a height of the magnified image and subtracting the fourth factor from a Y Cartesian coordinate of the cursor (column 4, lines 52-67). It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to combine the teaching of Rodriguez et al. with Chui's Cartesian coordinate data. Motivation of the combination would have been to place a magnified image in a right position.

As to claims 8, 12 and 16, Rodriguez et al. also provide the second image being displayed within a television safe area on a display screen (figure 3H).

As to claim 9, Rodriguez et al. in view of Mullet et al. fail to clearly teach alpha blending the first image with the magnified image, such that the first image shows through the magnified image. However, in the same field of the invention, Chui et al. demonstrate alpha blending the first image with the magnified image (column 7, lines 20-46).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to combine the teaching of Rodriguez et al. with Chui's Cartesian coordinate data. Motivation of the combination would have been to place a magnified image in a right position.

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As to claim 10, Rodriguez et al. disclose identifying a selected region of a first image adjacent to a cursor in the GUI (column 7, lines 10-20); forming a magnified image including an enlarged version of the first image located in the selected region (column 5, lines 5-35), superimposing the magnified image over the first image such that the magnified image masks the selected region (figure 3G-3H, column 5, line 50 through column 6, line 15) and superimposing the cursor over the magnified image to form a second image (column 5, lines 42-50 "in figure 3D pointer 306 is over image 304, which is presented in a magnified or larger form". Rodriguez et al. in view of Mullet et al. fail to clearly teach the step of determining Cartesian coordinate data identifying a first point on the first image located under the cursor and the step of masking the cursor a portion of the magnified image. However, in the same field of the invention, the step of determining Cartesian coordinate data identifying a first point on the first image located under the cursor are disclosed by Chui at column 6, lines 56-67 and column 7, lines 35-47. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to combine Chui's teaching with Rodriguez's magnified image. Motivation of the combination would have been to locate the cursor and the image at a right location.

Beside, Official notice is taken that implementation of the step of superimposing the cursor over the magnified image to form a second image such that the cursor masks a portion of the magnified image would have been well known in the art of computer interface because the cursor 306 can be superimposed over anyplace on the magnified image 314 by a user. The user can move the cursor (306) either beside the selected

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region (of the object 314) or right on the selected region (of the object 314) base on user's desire. This is just a user's choice.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made to combine the well known implementation of superimposing the cursor over the magnified image to form a second image to combine with Rodriguez's superimposing the magnified image over the first image. Motivation of the combination would have been to facilitate selection of the background image 302.

As to claim 13, Rodriguez et al. fail to clearly teach a user visually interacting with a magnified interface element at the second point actually interacts with an interface element at first point. However, in the same field of the invention, the claimed limitation is disclosed by Chui at column 11, lines 12-32. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to combine the teaching of Rodriguez et al. with Chui's Cartesian coordinate data. Motivation of the combination would have been to place a magnified image in a right position.

As to claim 17, Rodriguez et al. fail to clearly teach a user visually interacting with a magnified interface element at the second selected point actually interacts with an interface element at first selected point. However, in the same field of the invention, the claimed limitation is disclosed by Chui at column 11, lines 12-35. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to combine the teaching of Rodriguez et al. with Chui's Cartesian coordinate data. Motivation of the combination would have been to place a magnified image in a right position.

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(10) Response to Argument

1) Appellant has argued that it would not have been obvious to combine the teachings of Rodriguez and Mullet because Rodriguez teaches away from Mullet with respect to a magnified region that has “a predetermined height and width that is independent of a position of the cursor in the GUI”.

However, the argument is not persuasive and the examiner respectfully disagrees with this argument. In particular, Rodriguez does not teach away from tools that “magnify portions of a screen for a user”. A method and apparatus of Rodriguez teach a data processing system for presenting a set of objects within the data processing system. Responsive to detecting movement of a pointer over an object within the set of objects, an object type is identified for the object. Presentation of the object is then magnified based on the object type. It is clear that Rodriguez teaches “magnify portions of a screen for a user”. Appellant’s attention is directed to figures 3B, 3F and 3H. The portions 312 of (figure 3B), 314 (figure 3F) and 318 (figure 3H) are magnified of a screen for the user.

Moreover, Rodriguez teaches the step of forming a magnified image including an enlarged version of the first image located in the selected region. Appellant’s attention is also directed to column 5, line 41 through column 6, line 15 for more information about the magnifying the selected regions. Therefore, the Appellant is incorrect to state that Rodriguez teaches away from tools that “magnify portions of a screen for a user”.

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Rodriguez teaches the step of magnifying a selected region such as region 312 of (figure 3B), region 314 (figure 3F) and region 318 (figure 3H).

Although the system of Rodriguez teaches the step of magnifying the selected region, Rodriguez fails to teach the selected region having a predetermined height and width that is independent of a position of the cursor in the GUI. While Rodriguez teaches the height and width of the magnified selected region based on a type of an object, a second reference Mullet teaches magnifying a selected region with a predetermined height and width that is independent of a position of the cursor. The size of the selected region is unchangeable (that is independent of the position of the cursor) as shown in figures 3A-3D. The size, width and height of the selected region (15) is unchangeable when the region (15) is displayed up or down, left or right. The circle shape of the selected region (15) is unchangeably maintained regardless the position of the cursor. Appellant's attention is directed to figures 3A-3E for different positions of the cursor of the selected region (15).

The examiner respectfully disagrees with the argument that "Mullet teaches away from the clearly stated object of Rodriguez because Mullet suggests the embodiment of the step of magnifying the selected region. Furthermore, the approaches taught by Rodriguez and Mullet are similar. It would have been obvious to combine the teachings of these references to produce a method of digital image magnification in a GUI with a magnified region that has a "predetermined height and width that is independent of a

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position of the cursor in the GUI". Motivation of the combination would have been to maximize the readability of the magnified text.

In response to Appellant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art.

See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In this case, there is a motivation to combine Rodriguez and Mullet references. The combination of the references would yield an expectable result to form a magnified image including an enlarged version of a first image located in a selected region that is predetermined height and width that is independent of a position of a cursor. The motivation would have been for a benefit of maximizing the readability of the magnified text.

Moreover, in view of the guidance provided by the Supreme Court in KSR decision, a patent claim is prima facie obvious if "some motivation or suggestion to combine the prior art teachings" can be found in the prior art, the nature of the problem, or the knowledge of a person having ordinary skill in the art. See the recent Board decision *Ex parte Smith*, --USPQ2d--, slip op. at 20, (Bd. Pat. App. & Interf. June 25, 2007 (citing KSR, 82 USPQ2d at 1396) (available at <<http://www.uspto.gov/web/offices/dcom/bpai/prec/fd071925.pdf>>).

2) Appellant has also argued that “Rodriguez’s cursor is superimposed over the magnified image is not supported by the clear teachings of Rodriguez”.

Appellant argued that Rodriguez clearly fails to teach or suggest a “selected region having a predetermined height and width that is independent of a position of the cursor in the GUI”. Therefore, Rodriguez clearly fails to teach or suggest “superimposing the cursor over the magnified image to form a second image”.

The examiner agrees that Rodriguez alone does not disclose this feature. However, the combination of Rodriguez and Mullet teaches the selected region having a predetermined height and width that is independent of a position of the cursor in the GUI (please see above arguments). Moreover, Rodriguez suggested that the cursor 306 could be able to move to the position of an image 314 (figure 3F, column 5, lines 50-55). Official notice is taken that implementation of the step of superimposing the cursor over the magnified image to form a second image would have been well known in the art of computer interface because the cursor 306 can be superimposed over any-position on the magnified image 314 by a user. The user can move the cursor (306) either beside the selected region (of the object 314) or right on the selected region (of the object 314) base on user’s desire. This is just a user’s choice.

3) Appellant has also argued that Chui fails to teach or suggest “superimposing the cursor over the magnified image to form a second image”. However, the

examiner is not relying on Chui for this rejection. Rodriguez in view of Mullet teach the step of “superimposing the cursor over the magnified image to form a second image”. The appellant’s argument is not persuasive.

Re independent claim 10, the appellant has argued neither references teaches or suggests “superimposing the cursor over the magnified image such that the cursor masks a portion of the magnified image” and “superimposing the magnified image over the first image such that a second point on the magnified image screen corresponds to the first point on the first image... wherein the second point relative to the magnified image corresponds to the first point relative to the first image”.

However, the examiner respectfully disagrees with the above argument because the feature of superimposing the magnified image over the first image such that the magnified image masks the selected region is taught at figures 3G-3H, column 5, line 50 through column 6, line 15. Appellant’s attention is directed to column 5, lines 42-50, in figure 3D pointer 306 being over image 304, which is presented in a magnified or larger form which teaches the feature of superimposing the cursor over the magnified image to form a second image

Moreover, Chui teaches the feature of determining Cartesian coordinate data identifying a first point on the first image located under the cursor are disclosed by Chui at column 6, lines 56-67 and column 7, lines 35-47. Thus, the combination of the modified Rodriguez and Chui disclose the feature of superimposing the magnified image over the first image such that a second point on the magnified image screen corresponds to the

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first point on the first image...wherein the second point relative to the magnified image corresponds to the first point relative to the first image.

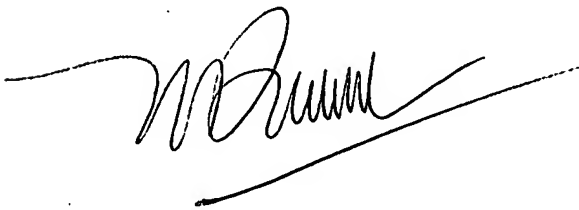
Official notice is taken that implementation of the step of superimposing the cursor over the magnified image to form a second image such that the cursor masks a portion of the magnified image would have been well known in the art of computer interface because the cursor 306 can be superimposed over anyplace on the magnified image 314 by a user. The user can move the cursor (306) either beside the selected region (of the object 314) or right on the selected region (of the object 314) base on user's desire.

This is just a user's choice.

(11) Related Proceeding(s) Appendix

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


A handwritten signature in black ink, appearing to read 'Mylinh Tran', with a long horizontal stroke extending to the right.

Mylinh Tran

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Conferees:



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